The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

Paper No. 21

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MIKKO LIETSALMI, JAAKKO VANTTILA,
and SEPPO ALANARA

Appeal No. 2000-0611
Application No. 08/708,179

ON BRIEF

Before THOMAS, RUGGIERO, and DIXON, **Administrative Patent Judges**.

DIXON, **Administrative Patent Judge**.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1-15, which are all of the claims pending in this application.

We REVERSE.

BACKGROUND

Appellants' invention relates to methods and apparatus for providing an interactive cell broadcast service which uses a point-to-multipoint transmission and a point-to-point acknowledgment signal. An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below.

> 1. A method for operating a wireless communications system of a type that comprises a Base Station/Mobile Switching Center/ Interworking function (BMI), comprising the steps of:
>
> transmitting a point-to-multipoint message from the BMI to a plurality of mobile stations; and
>
> in at least some of the plurality of mobile stations, receiving the point-to-multipoint message and transmitting an acknowledgment message to the BMI using a point-to-point message.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Siwiak et al. (Siwiak)	4,875,038	Oct. 17, 1989
Comroe et al. (Comroe)	5,179,721	Jan. 12, 1993
Neustein	5,473,667	Dec. 05, 1995
Raith et al. (Raith)	5,603,081	Feb. 11, 1997 (Filed Nov. 01, 1993)

Claims 1 and 10 stand rejected under 35 U.S.C. § 103 as being unpatentable over Comroe in view of Siwiak. Claims 2-5 and 7-9 stand rejected under 35 U.S.C. § 103 as being unpatentable over Comroe and Siwiak in view of Neustein. Claims 6 and 11-15 stand rejected under 35 U.S.C. § 103 as being unpatentable over Comroe and Siwiak and Neustein in view of Raith.

Rather than reiterate the conflicting viewpoints advanced by the examiner and appellants regarding the above-noted rejections, we make reference to the examiner's answer (Paper No. 14, mailed Oct. 14, 1998)[1] for the examiner's reasoning in support of the rejections, and to appellants' brief (Paper No. 13, filed Aug. 31,1998) and reply brief (Paper No. 15, filed Dec. 14, 1998) for appellants' arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to appellants' specification and claims, to the applied prior art references, and to the respective positions articulated by appellants and the examiner. As a consequence of our review, we make the determinations which follow.

Appellants argue that the combination of Comroe and Siwiak does not teach or suggest transmitting a point-to-multipoint message, receiving the point-to-multipoint message at the plurality of mobile stations and transmitting an acknowledgment to the BMI using a point-to-point message as recited in the language of claim 1. (See brief at page 7.) We agree with appellants.

The examiner maintains that Siwiak teaches the use of a broadcast message from a central station to a group of acknowledge back pagers and nonacknowledge back pagers. (See answer at page 8.) The examiner maintains that a point-to-

[1] We note that the examiner included another Examiner's Answer after the reply brief which appears to be the same as the original Answer. Therefore, we will refer to the original since a supplemental answer is not allowed as a matter of right by the examiner.

multipoint message is "nothing more than sending out a group call for someone to respond which is taught in Siwiak et al. (see abstract)." **Id.** We disagree with the examiner. While the abstract of Siwiak mentions a group of acknowledge back pagers, it also states that a central station transmits a group of message signals to the group of acknowledge back pagers. Therefore, Siwiak does not teach the broadcast of a single signal to multiple units as required by the claim 1.

Appellants identify at page 6 of the brief and pages 1-3 of the reply brief that Siwiak teaches that messages are transmitted sequentially. (See Siwiak at col. 4.) Siwiak teaches that:

> FIG. 4B shows the sequential relationship of each of the addresses within group 310. The addess [sic] of the first pager of the group of M pagers to be addressed is designated address 1 and is transmitted first in group 310 as shown. The pager to which address 1 corresponds is designated AB-1 for reference. The address of second pager of the group of M selected ack-back pagers is designated address 2 and is transmitted immediately following address 1. The pager to which address 2 corresponds is designated pager AB-2. This process of address transmission continues sequentially in the same fashion until all of the addresses of the group of M pagers are transmitted ending with address M, the address of the last or M'th pager in group 310. The pager to which address M corresponds ss [sic, is] designated pager AB-M. A non-ack back pager AB-3 is shown addressed in the block of M pages as will be described later in the discussion of FIG. 4H.

Therefore, it is clear that Siwiak does not teach the transmission of a point-to-multipoint message, but rather multiple transmissions via a plurality of point-to-point messages within a group of addresses.

Appellants argue that a "group call" as taught by Comroe is also disclosed by Siwiak, but that this is not a point-to-multipoint or broadcast operation as described at page 2, ll 23-32, page 4, l 18 to page 5, l 4 and page 11, ll 14-32. (See brief at page 9.) We agree with appellants that the "group call" of Comroe and Siwiak is not the same as that disclosed at those portions of the specification, but we note that the language of independent claim 1 does not recite the detail as set forth in the specification. Appellants argue that the invention is an improved point-to-multipoint message having a manual acknowledgment request and a method for enabling a mobile station to selectively respond to the receipt of the point-to-multipoint message. (See brief at page 9.) We find that the language of independent claim 1 does not include limitations of a manual acknowledgment request and a enabling a mobile station to selectively respond to the receipt of the point-to-multipoint message.

While appellants admit at page 9 of the brief that a point-to-multipoint was known prior to their invention, the examiner has not relied upon this admission and relies on the teachings of Comroe and Siwiak to teach the use of a point-to-multipoint transmission.

Comroe at col. 4 teaches the use of a group call to more than one communication unit to transfer their affiliation from the cell to the trunking network or vice versa.

> At step (200), the communication channel controller (110), when it determines that a particular communication unit is needed for a communication within the trunking communication system, transmits a first access number, or places a telephone call, to the particular communication unit via the cellular communication system. The communication channel controller (110), stores in a database, the trunking identification number of each of the communication units, and in accordance with this invention, would also store a first access number for each communication unit as well. The communication channel controller (110) may also store in the database a second access number, or second telephone number which would represent a group call such that several communication units would transfer their affiliation to the trunking communication system relatively simultaneously and requiring the communication channel controller (110) to place only <u>one telephone call</u>. [Emphasis added.]

Therefore, Comroe teaches a point-to-multipoint message via a single call, but the examiner relies on the activation of the "push-to-talk" button at col. 5 as an acknowledgment message. We disagree with the examiner's interpretation of the "push-to-talk" button. We find that the discussion of actuation of this button is not an acknowledgment to the base station, but a discussion of the difference between the operation of the communication unit as affiliated with the cellular system versus the trunking system operation. Therefore, we find that Comroe does not teach or suggest the use of a point-to-point acknowledgment message.

From the above discussion, we agree with appellants that the combination of the teachings of Siwiak with respect to the use of a point-to-point acknowledgment signal in response to a point-to-point message in combination with the point-to-multipoint message (group call) of Comroe would not have suggested the claimed point-to-multipoint message in combination with a point-to-point acknowledgment message. Since the examiner has not established a ***prima facie*** case of obviousness, we cannot sustain the rejection of independent claim 1. Similarly, we cannot sustain the rejection of independent claims 2, 7, 8, 10, 12, and 13 and their dependent claims since the examiner has not relied upon the teachings of Neustein and Raith to remedy the deficiencies in the combination of Comroe and Siwiak.

CONCLUSION

To summarize, the decision of the examiner to reject claims 1-15 under 35 U.S.C. § 103 is reversed.

REVERSED

JAMES D. THOMAS Administrative Patent Judge	)	
JOSEPH F. RUGGIERO Administrative Patent Judge	)	BOARD OF PATENT APPEALS AND INTERFERENCES
JOSEPH L. DIXON Administrative Patent Judge	)	

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APPEAL NO. 2000-0611 - JUDGE DIXON
APPLICATION NO. 08/708,179

APJ DIXON

APJ RUGGIERO

APJ THOMAS

DECISION: **REVERSED**

Prepared By: ????

DRAFT TYPED: 06 Jun 03

FINAL TYPED: